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OFFICE OF
INSURANCE COMMISSIONER

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Betterment

Attention: All companies authorized to write private passenger auto insurance in Washington

Discussion is occurring nationally regarding betterment provisions on private passenger auto insurance policies. Betterment refers to the deductions carriers make when repairs leave the vehicle more valuable than it was before it was damaged. These national discussions, coupled with complaints by Washington consumers to this office, have caused me to assess the betterment provisions used in this state. I have found that some are not consistent with regulation WAC 284-30-390(8). This regulation specifies the standards that insurance companies must use regarding betterment and depreciation in the settlement of claims for motorcycles and private passenger automobiles. The text of this regulation is as follows:

A deductions for betterment and depreciation are permitted only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. Deductions for betterment and depreciation shall be limited to the lesser of an amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part, or the amount which the resale value of the vehicle is increased by the repair or replacement. Calculations for betterment, depreciation, and normal useful life must be included in the insurer's claim file.

Betterment provisions that are not consistent with this language are misleading and deceptive in violation of RCW 48.18.110(1)(c). Also, the contractual language should inform both the consumers and companies of the limitations on betterment deductions.

No contract forms may be issued that contain language contrary to, or not entirely consistent with, WAC 284-30-390(8). (Forms already in use may continue to be used until June 1, 1996, if they are otherwise lawful.)

Until you correct the contract language, keep in mind RCW 48.18.510. Under that law, you must apply your contracts as though they had the proper provisions. Moreover, the requirements in WAC 284-30-390(8) are not subject to the language of the contracts. Therefore, existing contracts must be applied in accordance with that rule even if they contain contrary language.

All affected companies should file amended policies that have no language inconsistent with WAC 284-30-390(8). File them early enough that they can be approved before June 1, 1996.

DEBORAH SENN

Insurance Commissioner